

**Application to authorise
a deprivation of liberty**(section 4A(3) and 16(2)(a) of the
Mental Capacity Act 2005)

A streamlined procedure pursuant to Re X and Ors (Deprivation
of Liberty) [2014] EWCOP 25 and Re X and Ors (Deprivation of
Liberty)(Number 2) Re [2014] EWCOP 37

For office use only

Date received

Case no.

Date issued

Before completing this form please read the guidance leaflet attached. You can
download forms and leaflets at hmctsformfinder.justice.gov.uk. Search for form
type: 'Court of Protection'.

SEAL

Please give the full name of the person to whom the application is about

1. Statement of reasons for urgency

Any factors that ought to be brought specifically to the court's attention
(the applicant being under a specific duty to make full and frank
disclosure to the court of all facts and matters that might have an
impact upon the court's decision).

2. Order sought

Please specify the nature of the order you seek and attach a draft.

Duration of the Order sought

If granted the deprivation of liberty will be reviewed by the court at least annually. Do you consider that the authorisation will require a shorter review period?

☐ Yes

☐ No

If Yes, please provide details

3. Your details (the applicant)

☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms. ☐ Other _____

Full name

Post held/Job title

Name of organisation

Address

DX number

Telephone

Email

4. Permission

Are you applying for permission to make this application?

☐ Yes

5. The person the application is about

(a) Personal details

☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms. ☐ Other _____

First name

Middle name(s)

Last name

Maiden name
(if applicable)

Date of birth

D	D	M	M	Y	Y	Y	Y
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Is the person:

- ☐ Married or in a civil partnership
- ☐ In a relationship with a person who is not a spouse or civil partner
- ☐ Separated
- ☐ Divorced (give date)
- ☐ Widowed (give date of death of spouse or civil partner)
- ☐ Single

Full address including postcode

What type of accommodation is this?

eg. supported living arrangement, shared lives, own home, other

Name of local authority or NHS body responsible for the care placement

Is the person the application about subject to

- ☐ Detention under the Mental Health Act 1983
- ☐ A Community Treatment Order
- ☐ Guardianship

Will the proposed deprivation of liberty conflict with any such treatment or measure?

☐ Yes ☐ No

If Yes, please give details

(b) Decisions already made

Has the person the application is about made a relevant advance decision?

☐ Yes ☐ No

If Yes, please provide details and set out whether the decision made conflicts with the order sought in this application.

Has the person the application is about made a lasting power of attorney?

☐ Yes ☐ No

If Yes, please provide details and set out whether any relevant decision(s) made by the attorney(s) conflicts with the order sought in this application.

Has the court made an order appointing a deputy?

☐ Yes

☐ No

If Yes, please provide details of the deputy(s) and set out whether any relevant decision(s) made by the deputy(s) conflict with the order sought in this application

Are you aware of any previous application to the court regarding the person the application is about?

☐ Yes

☐ No

If Yes, please provide details.

I enclose a copy of the

☐ advance decision

☐ LPA

☐ relevant court order

6. Statement of truth

I believe the facts stated in this application form are true.

Signed

*Applicant ('s solicitor)

Name

Date

**Name of
organisation**

**Position or
office held**

* Please delete the options in brackets that do not apply.

Annex A: Evidence in support of an application to authorise a deprivation of liberty (Section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005)

Please give the full name of the person the application is about

1. Assessment of capacity

☐ I confirm that the person the application is about has been assessed as having an impairment or disturbance in the functioning of the mind or brain and lacks capacity to consent to the measures proposed and the deprivation of liberty which is identified within the application.

☐ I attach form COP3 or other evidence of capacity

2. Mental Health Assessment - Unsoundness of mind

☐ I confirm that the person has been medically diagnosed as being of “unsound mind” and I attach written evidence from a medical practitioner

If your assessment of capacity on form COP3 has not been completed by a registered medical practitioner, you must also attach written evidence from a registered medical practitioner containing a diagnosis that the person this application is about suffers from a diagnosis of ‘unsoundness of mind’.

☐ I am submitting the mental health assessment and assessment of capacity as a single document

☐ COP3 completed by a medical practitioner

3. Deprivation of liberty

Describe the factual circumstances relating to the deprivation of liberty with particular reference to whether the person the application is about is free to leave their residence and what type of supervision arrangements are in place.

(a) Is the person free to leave?

☐ Yes

☐ No

If No, please give details

(b) Is the person under constant supervision and control?

☐ Yes

☐ No

If Yes, please give details

(c) Is the person under physical restraint?

☐ Yes

☐ No

(d) Is sedation being used?

☐ Yes

☐ No

If you have answered Yes to either question above, please give details

(e) Is the person prevented from having contact with others?

☐ Yes

☐ No

If Yes, please give details

(f) What restrictions if any are imposed or measures used which affect the person's access to the community?

Please give details

(g) Are there any other relevant factors that relate to the deprivation of liberty?

☐ Yes

☐ No

If Yes, please give details

(h) Please explain why the proposed deprivation of liberty is thought to be imputable to the state

In the light of the responses to the questions under this heading, do you consider that the arrangements represent a deprivation of liberty?

☐ Yes

☐ No

4. Statement of best interests

State why the arrangements for which the authorisation as a deprivation of liberty is sought are necessary in the best interests of the person the application is about.

State what harm may occur or what the risks would be if the person were not deprived of their liberty. Provide detail of what the harm would be, how serious it would be and how likely it is to arise.

State why the deprivation of liberty is proportionate

Explain why it is considered that the risk of harm and the seriousness of harm justifies the restrictions amounting to a deprivation of liberty.

What less restrictive options have been tried or considered?

Explain why the option you propose is the least restrictive option and is in the best interests of the person.

☐ I attach the care plan

☐ I attach a copy of the best interests assessment relating to the placement

5. Other information

Provide any other information you think may be relevant in helping the court reach a decision

6. Statement of truth

I believe the facts stated in this annex are true.

Signed

Name

Date

**Name of
organisation**

**Position or
office held**

Annex B: Consultation with people with an interest in an application to authorise a deprivation of liberty

(Section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005)

Please give the full name of the person the application is about

Section 4(7) of the Mental Capacity Act places a duty on a decision maker to take into account the views of other people who have an interest in the person's personal welfare.

You should consult with:

- (a)** any donee of a lasting power of attorney granted by the person;
- (b)** any deputy appointed for the person by the court;

and, if possible, with at least three people from the following categories:

- (c)** anyone named by the person to whom the application is about as someone to be consulted on the matters raised by the application; and
- (d)** anyone engaged in caring for the person or interested in their welfare

You must inform the people consulted with of the information contained in section 40 of the Practice Direction 10AA and provide details, including attaching statements.

1. People who have been consulted and who fall within the categories (a) - (d) above

Name	Address	Connection to the person	Date consulted	Please state whether they support or object to the proposed arrangements and provide details of any views expressed. If none, insert 'none'.

2. People who have not been consulted within the categories (a) - (d) above

Name	Address	Reason why they were not consulted	Connection to the person

3. Litigation friend

If required, please list who would be prepared to act as Litigation Friend

Name	Address

4. Statement of truth

I believe the facts stated in this annex are true.

Signed

Name

Date

**Name of
organisation**

**Position or
office held**

Annex C: Consultation with the person the application is about in support of an application to authorise a deprivation of liberty

(Section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005)

Please give the full name of the person the application is about

Notes:

The person this application is about must be consulted about the application and the person undertaking this consultation must take all reasonable steps to assist the person to make a decision. If the person the application is about does not have capacity to consent to being deprived of their liberty, they must be given the opportunity to be involved in the proceedings, and to express their wishes and views, to help the court reach a decision about whether the proposed deprivation of liberty would be in their best interests.

Chapter 3 of the Mental Capacity Act Code of Practice contains practical guidance about consulting and encouraging participation.

The person undertaking the consultation should be someone who knows the person the application is about, and who is best placed to express their wishes and views. It could be a relative or close friend, or someone who the person has previously chosen to act on their behalf (for example an attorney). If no suitable person is available, then an IMCA (Independent Mental Capacity Advocate) or another similar or independent advocate should be appointed to perform the role.

1. Details of the person undertaking the consultation

☐ Mr. ☐ Mrs. ☐ Miss ☐ Ms. ☐ Other _____

First name

Middle name(s)

Last name

2. Statement by the person undertaking the consultation

Describe your relationship to the person

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How long have you known them?

--

Date of consultation

D	D	M	M	Y	Y	Y	Y
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(a) Confirm that you explained to the person the application is about:

- (i) that the applicant is making an application to court;
- (ii) that the application is to consider whether the person lacks capacity to make decisions in relation to their residence and care, and whether to authorise a deprivation of their liberty in connection with the arrangements set out in the care plan;
- (iii) what the proposed arrangements under the order sought are;
- (iv) that the person is entitled to express their views, wishes and feelings in relation to the proposed arrangements and the application, and that the person undertaking the consultation will ensure that these are communicated to the court;
- (v) that the person is entitled to seek to take part in the proceedings by being joined as a party or otherwise, what that means, and that the person undertaking the consultation will ensure that any such request is communicated to the court;
- (vi) that the person undertaking the consultation can help them to obtain advice and assistance if they do not agree with the proposed arrangements in the application.

Please give details

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(b) Did the person this application is about express any views, wishes or feelings in relation to the application and the proposed/actual deprivation of liberty?

☐ Yes

☐ No

If Yes, please give details and the manner of expressing those views if appropriate

(c) Does the person wish to take part in the proceedings?

☐ Yes

☐ No

If Yes, please explain how

(d) Are you aware of any present or past wishes, feelings or beliefs (including religious, cultural and moral beliefs of the person this application is about) and values that must be taken into account before the court authorises a deprivation of liberty?

☐ Yes

☐ No

If Yes, please give details; include in particular any relevant oral or written statements made or views expressed when they had capacity. Set out any beliefs and values which might influence the decision if they had capacity and any other factors that they would be likely to consider were they able to do so.

(e) Provide any other information that you consider to be relevant to the court

3. Statement of truth

I believe the facts stated in this annex are true.

Signed

Name

Date

**Name of
organisation**

**Position or
office held**

Checklist for completing form

COPDL10 for a Court authorised deprivation of liberty.

Every question on the forms should be completed, or stated that information is not available. Failure to provide the information required by the court could lead to unnecessary delays to proceedings.

A separate application must be made for each individual for whom an authorisation of a deprivation of liberty is sought.

Please ensure that the following forms have been completed:

- ☐ **COPDL10** Application under section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 to authorise a deprivation of liberty
- ☐ **Annex A** Evidence in support of an application under section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 to authorise a deprivation of liberty
- ☐ **Annex B** Consultation with people with an interest in an application under section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 to authorise a deprivation of liberty
- ☐ **Annex C** Consultation with the person the application is about for an application under section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 to authorise a deprivation of liberty.

You must also supply:

- ☐ COP3 Evidence of capacity
- ☐ Mental Health Assessment
- ☐ a copy of any Advance Decision
- ☐ a copy of any Lasting Power of Attorney (LPA)
- ☐ any relevant Court orders
- ☐ Care Plan
- ☐ Best Interest Assessment
- ☐ the application fee

General information for completing form COPDL10 for a Court authorised deprivation of liberty.

These forms should be used to make applications to the Court of Protection for the court to authorise a deprivation of liberty for people who are receiving care in domestic settings such as shared lives and supported living. The forms should not be used for applications to vary or terminate a standard or urgent authorisation made by a supervisory body under Schedule A1 of the Mental Capacity Act.

1. COPDL10 – The Application Form

- Order sought – you must specify in the box the nature of the order you seek, i.e a declaration that the person the application is about lacks capacity to make decisions relating to their care and residence or an order that it is in the best interests of the person the application is about to deprive that person of their liberty.
- Explain why the proposed deprivation of liberty is thought to be imputable to the state. Are the care arrangements which give rise to the deprivation of liberty being made either by a local authority or the NHS?
- Permission. These applications fall under the personal welfare jurisdiction of the Court therefore permission is required in all cases.
- Date of Birth – Proof that the person the application is about is 16 years old or over.

2. Annex A – Evidence in Support of Application

In most cases the allocated social worker with the relevant skill and knowledge, involved with the care arrangements may complete the form. However, if one or more of the trigger factors apply, someone independent (who may still be employed by the applicant public authority) to the allocated social worker should provide the evidence.

- The purpose of the mental health assessment is to establish that the person the application is about has been diagnosed as being of ‘unsound mind’, and therefore comes within the scope of article 5 of the European Convention on Human Rights.
- The evidence may be provided by a registered medical practitioner or psychiatrist, evidence from a social worker or other non-medical practitioner listed in the notes to form COP3 will not be accepted.
- The mental health assessment may take the form of a letter setting out the diagnosis, the name of the practitioner and their qualifications. If it is not possible to provide the original letter, a copy certified by the applicant as a true copy of the original will be acceptable. The evidence should not be more than 12 months old and should also make reference to the person’s eligibility to be deprived of their liberty.
- In cases where suitable mental health evidence is not readily available, then it would be acceptable to provide the assessment of capacity and mental health assessment as a single document using form COP3, but the combined evidence must be provided by a registered medical practitioner or psychiatrist.
- Is the person the application is about free to leave? This does not relate to the ability of the person to express a desire to leave but on what those with control over their care arrangements would do if they attempted to leave.
- Is the person the application is about under constant supervision and control? Provide details of the number of hours of supervision and under what situations. Provide details of the type of control exercised by staff/carers other than physical restraint.
- Is the person the application is about under physical restraint/is sedation being used? You should describe the situations when physical restraint is used. The type of restraint the frequency and duration. If sedation is used please describe the type of sedation administered.

- Is the person the application is about prevented from having contact with others? Authorisations for deprivation of liberty cannot be used to regulate or restrict contact between the person for whom the authorisation is sought and others –this includes family members or others who share living arrangements with the person the application is about.
- Statement of Best Interests You may find it helpful to refer to paragraph 5.13 in the Mental Capacity Act Code of Practice.

3. Annex B — Consultation with People with an interest in an application to authorise a deprivation of liberty.

Section 4(7) of the Mental Capacity Act places a duty on a decision maker to consult with other people who have an interest in the person's personal welfare.

You should consult with:

- (a) any donee of a lasting power of attorney granted by the person;
- (b) any deputy appointed for the person by the court;

together with, if possible, at least three people in the following categories:

- (c) anyone named by the person the application is about as someone to be consulted on the matters raised by the application; and
- (d) anyone engaged in caring for the person or interested in their welfare

You must tell the people you consult with that

- (a) that the applicant is making an application to court;
- (b) that the application is to consider whether the person the application is about lacks capacity to make decisions in relation to his or her residence and care and whether they should be deprived of their liberty in connection with the arrangements set out in the care plan;
- (c) what the proposed arrangements under the order sought are.

and that you are under an obligation to tell the person the application is about:

- (d) that they are entitled to express their views, wishes and feelings in relation to the proposed arrangements and the application and that the person undertaking the consultation with them will ensure that these are communicated to the court;
- (e) that they are entitled to seek to take part in the proceedings by being joined as a party or otherwise, what that means, and that the person consulting with them will ensure that any such request is communicated to the court;
- (f) that the person consulting them can help them to obtain advice and assistance if they do not agree with the proposed arrangements in the application.

If the people you consult with express any views about the application or the proposed deprivation of liberty you should provide details, including attaching statements.

4. Annex C

Annex C Consultation with the person the application is about is used to inform the court that the person the application is about has been consulted about the application.

The person undertaking the consultation should be someone who knows the person the application is about, and who is best placed to express their wishes and views. It could be a relative or close friend, or someone who the person has previously chosen to act on their behalf (for example an attorney).

If no one is available, then the allocated social worker may undertake the consultation and complete the form, but where appropriate, an IMCA (Independent Mental Capacity Advocate) or another independent advocate should be appointed to assist.

The person the application is about must be consulted regarding the application and the person undertaking the consultation must take all reasonable steps to assist the person to make a decision. If the person the application is about does not have capacity to consent to being deprived of their liberty, they must be given the opportunity to be involved in the proceedings, and to express their wishes and views, to help the court reach a decision about whether the detention would be in their best interests.

Chapter 3 of the Mental Capacity Act Code of Practice contains practical guidance about consulting and encouraging participation.

Application to authorise a deprivation of liberty

(section 4A(3) and 16(2)(a) of the Mental Capacity Act 2005)

Your application must answer the following matters, either in the body of the application form or in attached documents.

Failure to provide the information required may result in the case not being suitable for the application to be dealt with under the streamlined process for an authorisation to deprive a person of their liberty under existing or continuing care arrangements.

Information required:

1. Are there any reasons for particular urgency in determining the application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Have you confirmed that 'P' (the person the application is about) is 16 years old or more and is not ineligible to be deprived of liberty under the 2005 Act?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Have you attached the relevant medical evidence stating the basis upon which it is said that 'P' suffers from unsoundness of mind?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Have you attached the relevant medical evidence stating the basis upon which it is said that 'P' lacks the capacity to consent to the care arrangements?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
5. Have you attached a copy of 'P's' care plan?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
6. Does the care plan state the nature of 'P's' care arrangements and why it is said that they do or may amount to a deprivation of liberty?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
7. Have you stated the basis upon which it is said that the arrangements are or may be imputable to the state?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8. Have you attached a best interests assessment?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9. Have steps been taken to consult 'P' and all other relevant people in 'P's' life (who should be identified) of the application and to canvass their wishes, feelings and views?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10. Have you recorded in Annex B any relevant wishes and feelings expressed by 'P' and any views expressed by any relevant person?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11. Have you provided details of any relevant advance decision by 'P' and any relevant decisions under a lasting power of attorney or by 'P's' deputy (who should be identified)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
12. Have you identified anyone who might act as a litigation friend for the person to whom the application relates?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
13. Have you listed any factors that ought to be brought specifically to the court's attention (the applicant being under a specific duty to make full and frank disclosure to the court of all facts and matters that might impact upon the court's decision), being factors: a) needing particular judicial scrutiny; or b) suggesting that the arrangements may not in fact be in 'P's' best interests or be the least restrictive option; or c) otherwise indicating that the order sought should not be made.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
14. Have you enclosed the fee?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

The following triggers may indicate that your application is not suitable to be made under the streamlined process and that an oral hearing may be required in the first instance:

1. Any contest by the person the application is about or by anyone else to any of the matters listed at 2 – 8 above
2. Any failure to comply with any of the requirements referred in 9 above.
3. Any concerns arising out of information supplied in accordance with 10, 12 and 13 above.
4. Any objection by the person this application is about.
5. Any potential conflict with any decision of the kind referred to in 11 above.
6. If for any other reason the court thinks that an oral hearing is necessary or appropriate

